

## HB0182S01 compared with HB0182

~~{deleted text}~~ shows text that was in HB0182 but was deleted in HB0182S01.

Inserted text shows text that was not in HB0182 but was inserted into HB0182S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Merrill F. Nelson proposes the following substitute bill:

### LOCAL OPTION SAND AND GRAVEL TAX

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merrill F. Nelson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill provides for a local option sand and gravel tax.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a county of the third, fourth, fifth, or ~~{municipality}~~ sixth class to impose a tax on certain sand and gravel that is extracted and then sold or transported;
- ▶ establishes a tax rate cap and administrative procedures for the tax;
- ▶ provides for the expenditure of the revenue generated from the tax;
- ▶ creates nonrefundable tax credits;
- ▶ addresses record keeping and penalties for failure to comply with the tax; and
- ▶ makes technical and conforming changes.

## HB0182S01 compared with HB0182

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**59-1-306**, as last amended by Laws of Utah 2017, Chapter 430

#### ENACTS:

**59-29-101**, Utah Code Annotated 1953

**59-29-102**, Utah Code Annotated 1953

**59-29-103**, Utah Code Annotated 1953

**59-29-104**, Utah Code Annotated 1953

**59-29-105**, Utah Code Annotated 1953

**59-29-106**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-1-306** is amended to read:

**59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.**

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

- (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- (c) Section 19-6-714;
- (d) Section 19-6-805;
- (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- (f) Section 59-27-105; ~~[or]~~
- (g) Chapter 29, Local Option Sand and Gravel Tax Act; or

## HB0182S01 compared with HB0182

~~[(g)]~~ (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of ~~[revenues]~~ revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of ~~[revenues]~~ revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 2. Section **59-29-101** is enacted to read:

### **CHAPTER 29. LOCAL OPTION SAND AND GRAVEL TAX ACT**

#### **59-29-101. Title.**

This chapter is known as the "Local Option Sand and Gravel Tax Act."

Section 3. Section **59-29-102** is enacted to read:

#### **59-29-102. Definitions.**

As used in this part:

(1) "Annexation" means an annexation to ~~{a local entity}~~ an eligible county.

(2) "Annexing area" means an area that is annexed into ~~{a local entity}~~.

~~(3)~~ an eligible county.

(3) "Class B road" means the same as that term is defined in Section 72-3-103.

(4) "Class C road" means the same as that term is defined in Section 72-3-104.

(5) "Class D road" means the same as that term is defined in Section 72-3-104.

(6) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

(7) "Extraction site" means:

## HB0182S01 compared with HB0182

- (a) a pit, quarry, or deposit that:
  - (i) contains sand and gravel; and
  - (ii) is operated in whole or in part within ~~{a local entity}~~ an eligible county; or
- (b) any property contiguous to a pit, quarry, or deposit described in Subsection ~~(3)7~~ (a) that is used by an operator for stockpiling sand and gravel.
- ~~{~~ ~~——~~ (4) "Local entity" means:
  - ~~——~~ (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or
  - ~~——~~ (b) a municipality under Title 10, Chapter 2, Part 4, Annexation.
- ~~‡~~ ~~(5)8~~ (8) "Operator" means any person that:
  - (a) is engaged in the business of extracting sand and gravel from an extraction site; and
  - (b) ~~{makes a}~~ (i) exchanges or barters, conditional or otherwise, sand and gravel {sale:
    - ~~——~~ (6) for consideration; or
    - (ii) transports or causes to be transported sand and gravel from an extraction site to another place regardless of:
      - (A) who transports the sand and gravel; or
      - (B) the place to which the sand and gravel is transported.
  - (9) "Sand and gravel" means:
    - (a) sand;
    - (b) gravel; or
    - (c) any combination of sand and gravel.
  - ~~{~~ ~~——~~ (7) "Sand and gravel sale" means:
    - ~~——~~ (a) exchanging or bartering, conditional or otherwise, sand and gravel for consideration; or
    - ~~——~~ (b) transporting or causing to be transported sand and gravel from an extraction site to another place regardless of:
      - ~~——~~ (i) who transports the sand and gravel; or
      - ~~——~~ (ii) the place to which the sand and gravel is transported.
  - ~~‡~~ ~~(8)10~~ (10) "Ton" means a short ton of 2,000 pounds.

Section 4. Section **59-29-103** is enacted to read:

**59-29-103. Sand and gravel tax -- Rate -- Imposition -- {}**Use of tax revenue --

**Tax rate change -- Notice requirements.**

## HB0182S01 compared with HB0182

(1) ~~{(a) Subject to the other provisions of this chapter, a local entity}~~ Beginning on or after January 1, 2019, and ending on or before January 1, 2024, an eligible county may, by ordinance, impose a tax~~{under this chapter:~~

~~—— (i) at a rate}~~ of up to ~~{10}~~ 15 cents per ton~~}; and~~

~~—— (ii) }~~ on ~~{ the portion of a }~~ sand and gravel ~~{sale }~~ that is ~~{ sand and gravel }~~:

(a) extracted from an extraction site located within the {local entity:

~~—— (b) (i) Only one local entity may impose a tax under this chapter within a municipality.~~

~~—— (ii) The local entity that first notifies the commission, in a manner prescribed by the commission, has priority to impose a tax under this chapter within a municipality.~~

~~—— (2) A local entity imposing}~~ eligible county; and

(b) (i) exchanged or bartered, conditional or otherwise, for consideration; or

(ii) transported or caused to be transported from an extraction site to another place regardless of:

(A) who transports the sand and gravel; or

(B) the place to which the sand and gravel is transported.

(2) (a) Subject to Subsections (2)(b) through (d), an eligible county that imposes a tax under this chapter shall expend the revenue collected from the tax for the {construction and maintenance of highways under the jurisdiction of the local entity imposing the tax:

~~—— (3) (a) If a local entity}~~ maintenance of class B roads, class C roads, and class D roads that:

(i) are within the boundaries of the eligible county; and

(ii) need maintenance due to the transportation of sand and gravel within the eligible county.

(b) An eligible county shall consult with the municipalities located within the eligible county's boundaries regarding the priority and need for maintaining a road described in Subsection (2)(a).

(c) The eligible county shall expend the revenue collected from the tax imposed under this chapter in proportion to the maintenance costs of the roads described in Subsection (2)(a).

(d) Revenue collected from a tax imposed under this chapter may not be used to supplant existing general fund appropriations that an eligible county has budgeted for transportation as of the date the tax becomes effective.

## HB0182S01 compared with HB0182

(3) (a) Except as provided in Subsection (5), if an eligible county enacts, repeals, or changes the rate of tax under this chapter, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives the notice described in Subsection (3)(b) from the ~~{local entity}~~ eligible county.

(b) The notice required in Subsection (3)(a)(ii) shall state:

(i) that the ~~{local entity}~~ eligible county will enact, repeal, or change the rate of a tax under this part;

(ii) the statutory authority for the tax;

(iii) the effective date of the tax; and

(iv) the rate of the tax.

(4) (a) ~~{if}~~ Except as provided in Subsection (5), if an annexation will result in an enactment, a repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives the notice described in Subsection (4)(b) from the eligible county ~~{or city}~~ that annexes the annexing area.

(b) The notice required in Subsection (4)(a)(ii) shall state:

(i) that the annexation will result in an enactment, a repeal, or a change in the rate of a tax under this chapter for the annexing area;

(ii) the statutory authority for a tax;

(iii) the effective date of the tax; and

(iv) the rate of the tax.

(5) The tax imposed by this chapter is repealed on January 1, 2024, regardless of an eligible county's:

(a) action under Subsection (3) or (4) after October 1, 2023; or

(b) failure to notify the commission of an action under Subsection (3) or (4) on or before October 1, 2023.

Section 5. Section **59-29-104** is enacted to read:

**59-29-104. Administration and payment of tax -- Credit -- Rulemaking.**

## HB0182S01 compared with HB0182

(1) An operator shall file a return with the commission and pay the tax imposed under this chapter:

(a) in an electronic format approved by the commission; and

(~~f~~~~a~~~~b~~)(i) quarterly on or before the last day of the month immediately following the last day of the previous calendar quarter if:

(~~f~~~~i~~~~i~~A) the operator is required to file a quarterly sales and use tax return with the commission under Section 59-12-107; or

(~~f~~~~i~~~~i~~B) the operator is not required to file a sales and use tax return with the commission under Chapter 12, Sales and Use Tax Act; or

(~~f~~~~b~~ii) monthly on or before the last day of the month immediately following the last day of the previous calendar month if the operator is required to file a monthly sales and use tax return with the commission under Section 59-12-108.

(2) On the tax return described in Subsection (1), the operator shall indicate the ~~f~~~~a~~~~m~~~~o~~~~u~~~~n~~~~t~~ ~~n~~~~u~~~~m~~~~b~~~~e~~~~r~~ of ~~f~~~~t~~~~a~~~~x~~~~a~~~~b~~~~l~~~~e~~ ~~t~~~~o~~~~n~~~~s~~ of sand and gravel that ~~f~~~~i~~~~s~~ ~~a~~~~r~~~~e~~ extracted from each ~~f~~~~l~~~~o~~~~c~~~~a~~~~l~~ ~~e~~~~n~~~~t~~~~i~~~~t~~~~y~~ ~~e~~~~l~~~~i~~~~g~~~~i~~~~b~~~~e~~ ~~c~~~~o~~~~u~~~~n~~~~t~~~~y~~ that imposes a tax under this chapter.

(3) (a) An operator that is required to file a quarterly return described under Subsection (1)(~~f~~~~a~~~~b~~)(i) may claim on the return a nonrefundable tax credit of \$600 against the amount of tax for which the operator is liable to pay under this chapter for the quarter.

(b) An operator that is required to file a monthly return described under Subsection (1)(b)(ii) may claim on the return a nonrefundable tax credit of \$200 against the amount of tax for which the operator is liable to pay under this chapter for the month.

(4) The operator of an extraction site shall be responsible for filing the return required by this section, but the operator may designate an agent to report and pay the tax.

(5) (a) Subject to Subsection (5)(b), the commission shall distribute to each ~~f~~~~l~~~~o~~~~c~~~~a~~~~l~~ ~~e~~~~n~~~~t~~~~i~~~~t~~~~y~~ ~~e~~~~l~~~~i~~~~g~~~~i~~~~b~~~~e~~ ~~c~~~~o~~~~u~~~~n~~~~t~~~~y~~ the amount of tax collected under this chapter on sand and gravel that is extracted from an extraction site located within the ~~f~~~~l~~~~o~~~~c~~~~a~~~~l~~ ~~e~~~~n~~~~t~~~~i~~~~t~~~~y~~ ~~e~~~~l~~~~i~~~~g~~~~i~~~~b~~~~e~~ ~~c~~~~o~~~~u~~~~n~~~~t~~~~y~~.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this chapter.

(6) Taxes due under this chapter are in addition to all other taxes provided by law.

(7) The commission may make administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce and administer the

## HB0182S01 compared with HB0182

provisions of this chapter.

Section 6. Section **59-29-105** is enacted to read:

### **59-29-105. Records.**

(1) An operator shall maintain records, statements, books, or accounts necessary to determine the amount of tax for which the operator is liable to pay under this chapter.

(2) The commission may require an operator, by notice served upon the person, to make or keep the records, statements, books, or accounts described in Subsection (1) in a manner in which the commission considers sufficient to show the amount of tax for which the operator is liable to pay under this chapter.

(3) After notice by the commission, the operator shall open the records, statements, books, or accounts specified in this section for examination by the commission or an authorized agent of the commission.

Section 7. Section **59-29-106** is enacted to read:

### **59-29-106. Penalties and interest.**

An operator that fails to comply with this chapter is subject to:

(1) penalties described in Section 59-1-401; and

(2) interest described in Section 59-1-402.

Section 8. **Effective date.**

This bill takes effect on January 1, 2019.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**